

to 66 Pa. C.S. §3008(c) and imposing strict imputation pricing restrictions on LECs, IXCs or both.

In order to monitor this situation, pursuant to our authority set forth in 66 Pa. C.S. §§3005(c), 3008(e) and 3009(d), we will direct the Executive Director of our Staff to coordinate the development, for Commission consideration and implementation, of reporting requirements or other necessary monitoring tools to enable the Commission and its Staff to assure that a competitive intraLATA marketplace is developed in a timely, unobstructed manner. The Staff recommendation should include procedures for Staff to monitor and inform the Commission of the status of the market and shall be submitted for Commission consideration within 126 days of the entry date of this Order.

E. Equal Access Recovery Charges

There is no question that the LECs will incur costs in implementing intraLATA presubscription, not only in the cost of the necessary central office switches and associated hardware and software, but also in the cost of updating administrative systems such as the Customer Record Information System ("CRIS") and the Carrier Access Billing System ("CABS"). Generally, the LECs believe that all costs associated with implementing presubscription should be borne by the carriers seeking the implementation of presubscription. The OTS is generally supportive of this position, proposing a five-year amortization of such costs based on the number of access lines each intraLATA competitor of the LEC will require. AT&T and MCI urge that the costs of implementing presubscription be recovered through an Equal Access Recovery Charge ("EARC"). They propose that only the LECs' direct incremental cost of providing presubscription should be recoverable through an EARC, and that the recovery period should be eight years.

The ALJ recommended that all intraLATA toll service providers share in the cost of intraLATA presubscription implementation, including the LECs. However, authorizing presubscription in the intraLATA toll services market is a decision which will clearly benefit the IXCs and not the incumbent LECs. Thus, as our Office of Trial Staff argues, the cost responsibility should reflect this fact. As a result, we direct that only the IXCs offering services in the intraLATA market bear the cost of intraLATA presubscription implementation. We further direct that such costs be proportioned on an access line basis to those access lines presubscribed to IXCs offering intraLATA services, and amortized over a thirty-six (36) month period.

F. Local Exchange Carrier Pricing Flexibility

We agree with the ALJ recommendation that LECs should have some pricing flexibility to react to the marketplace in an intraLATA presubscription environment. The ALJ, at Ordering Paragraph No. 8 of the R.D., recommends that the Commission establish procedures for expedited review and approval of LEC's proposed tariff changes. We believe that the procedures established by this Commission relative to the review and approval of IXC services at Docket Nos. N-009304496 and L-00940099 are appropriate and, as such, they will be utilized in our review of LEC intraLATA toll tariffs. We keep in mind that the underlying cost of service/cost allocation methodology should be consistent with this Opinion and Order and the findings in our Universal Service Investigation.

G. Customer Communication Standards Regarding Presubscription

AT&T raised a legitimate concern that LEC communication with customers regarding the customer's choice of intraLATA toll carrier should be fair and impartial. Accordingly, LECs are hereby directed to implement appropriate training measures to ensure that employees interact with customers in a fair and impartial manner

when such customer contacts the LEC to presubscribe to the customer's intraLATA toll carrier of choice.

III. Conclusion

In accordance with the foregoing, we adopt the Recommended Decision of Administrative Law Judge Robert P. Neahan, except to the extent modified herein. We are taking this important action today because of the exigent circumstances which exist pertaining to the Commission's efforts to design a Pennsylvania-specific policy governing the implementation of intraLATA presubscription. Such efforts relate to the potential enactment of legislation by the United States Congress which is currently considering comprehensive telecommunications legislation which if enacted would have far-reaching impact on the regulation of the telecommunications industry at both the federal and state levels. While we expect that any federal legislation will permit states with established policy concerning the initiation of intraLATA presubscription to implement their state-specific policies, it appears that such deference will only be granted if a given state policy is established in a timely manner as defined by any final federal legislation. This factor and resulting exigent circumstances prompts us to act so as to assure that we are able to implement intraLATA presubscription policy which is specifically designed to meet the unique needs of Pennsylvania consumers; THEREFORE,

IT IS ORDERED:

1. That IntraLATA Presubscription in accordance with the terms and conditions in this Opinion and Order is in the public interest.

2. That all local exchange carriers shall implement intraLATA presubscription pursuant to the following schedule:

a. Local exchange carriers serving in excess of 250,000 access lines shall implement intralATA presubscription by June 30, 1997.

b. Local Exchange carriers serving 250,000 access lines or less shall implement intralATA presubscription by December 31, 1997.

3. That the implementation of intralATA presubscription, as provided in Ordering Paragraph No. 2, shall be subject to the following conditions:

a. no local exchange carrier shall be required to revise its existing dialing protocol for intralATA toll calls by its customers;

b. the implementation of intralATA presubscription shall be based on the use of Full 2-PIC method;

c. any local exchange carrier, having the ability to do so, may implement intralATA presubscription earlier than the schedule in Ordering Paragraph No. 2; and

d. any local exchange carrier, upon a showing of good cause, may petition the Commission for a delay in the scheduled implementation of intralATA presubscription, as otherwise provided in Ordering Paragraph No. 2, and in accordance with the requirements herein.

4. That any local exchange carrier may file a revised tariff or tariff supplement to rebalance its existing rate structure, subject to the following conditions:

a. the revised tariff or tariff supplement shall be revenue neutral;

b. the common carrier line charge shall not, at this time be eliminated, but shall be subject to the findings and anticipated Order in the Universal Service Investigation with regard to access pricing and cost components;

5. That the LECs are authorized to file a surcharge tariff which contains an equal access recovery charge designed to recover the local exchange carrier's direct incremental cost of providing intralATA presubscription within Pennsylvania. The equal access recovery charge shall be assessed against the Interexchange Carriers providing intralATA toll service, such costs to be proportioned on an access line basis, amortized over a period not to exceed thirty-six months.

6. That the ALJ recommendation that rate rebalancing filings be accompanied by TSLRIC studies consistent with the Colorado Commission's format is rejected, and each revised tariff or tariff supplement, filed as permitted by Ordering Paragraph 4, shall be consistent with the studies and methods to be submitted in the Universal Service Investigation Docket and the findings reached in the Universal Service Investigation will govern the review and disposition of all rate rebalancing tariffs.

7. That all questions contained in the body of the Order instituting this investigation, included within Appendix A thereto, or within the statements of individual Commissioners relating to universal service are severed from this proceeding, and are consolidated with the Commission's pending Universal Service Investigation, at Docket No. I-00940034.

8. That the Executive Director of the Commission is directed to coordinate the development, for Commission consideration and implementation, of reporting requirements or other necessary monitoring tools to enable the Commission and its staff to assure that a competitive intralATA marketplace is developed in a timely, unobstructed manner. The Staff recommendation should include procedures for Staff to monitor and inform the Commission of the status of the market and shall be

submitted for Commission consideration within 120 days of the entry date of this Opinion and Order.

9. That to provide the local exchange carriers pricing flexibility to meet competitive pressures in a presubscribed intralATA environment, the procedures established by this Commission relative to the review and approval of IXC services at Docket Nos. N-00930496 and L-0094009 are appropriate and should be used consistent with this Opinion and Order and the findings in the Universal Service Investigation.

10. That the Commission rejects the elimination of the cap at this time. However, recognizing that this access price and cost components is included in our Universal Service Investigation, we will apply such principles on a case-by-case basis in the context of each company's expected rate rebalancing filing.

11. That the Recommended Decision of Administrative Law Judge Robert P. Keenan, is adopted, as modified, to the extent consistent with this Opinion and Order.

12. That the Exceptions of the parties are granted in part, and denied in part, consistent with this Opinion and Order. Further, the proposals, suggestions, positions, etc., of any party or parties, which have not been included within the preceding Ordering Paragraphs, or are not contained within the following recommendations, are rejected.

13. That all Local Exchange Companies are directed to implement reasonable and necessary training measures to assure that

LEC employees who interact with customers do so in a fair and impartial manner when such customers contact the LEC to presubscribe to the customer's intralATA toll carrier of choice.

BY THE COMMISSION



John G. Alford
Secretary

(SEAL)

ORDER ADOPTED: December 14, 1995

ORDER ENTERED: DEC 14 1995

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-2305**

**INVESTIGATION INTO INTRALATA
INTERCONNECTION ARRANGEMENTS**

**PUBLIC HEARING -
DECEMBER 24, 1995
890-22-ALJ-1440
DOCKET NO. I-00940034**

STATEMENT OF COMMISSIONER JOHN HANSEN

On May 4, 1994, I moved that this Commission begin this proceeding to decide whether phone customers should be able to choose which phone company will carry their intralata toll calls in the same manner as they now choose which phone company will carry their long-distance toll calls. Intralata toll calls are calls within a local phone company's service territory but which are not part of the customer's local calling package and for which the customer pays an extra charge or toll. For the typical residential phone customer, intralata toll calls amount to about 30% of the total phone costs, including long distance charges. Intralata toll calls usually amount to 80% of the typical residential customer's total bill for local phone service.

Presubscription means that a customer can choose one company to carry all his calls and does not need to dial any access codes before each phone call to implement this choice if the call originates from the customer's phone. Presubscription for many years has been central to the competitive long-distance market. Today, the Commission gives phone customers the ability to presubscribe with the phone company of their choice for all their intralata toll calls. This will greatly increase competition for intralata toll business. Intralata toll rates should decrease once presubscription is operational as phone companies will have to compete for toll business. Consequently, I support beginning intralata presubscription.

Though I concur with the decision to begin intralata presubscription, I issue this statement to highlight some concerns that I have about how presubscription could be implemented in Pennsylvania. These concerns are: 1) possible attempts by some phone companies to recover lost revenues in the intralata toll market by raising basic telephone rates, even if these basic telephone rates cover the cost of service; 2) the absence of a definitive statement on imputation; and 3) the implementation schedule.

If this Commission allows phone companies that lose revenues as a result of competition in the intralata toll market to recover every lost dollar by raising the rates of basic telephone service, even if basic telephone rates do cover costs, intralata toll presubscription and competition will not produce lower total

phone bills and any consumer benefit. Regulators should not use their power to take from customers the benefits produced by competition simply because a company lost market share or revenues when competition began. Competition is tough. Some companies will prosper and grow. Others will lose customers and revenues. While competition will produce winners and losers, phone customers who do not yet have competitive choices cannot be a bank or an insurance policy that pay for revenues lost in competitive markets. The role of regulation today should be to implement full and fair competition where possible, to make sure that customers who do not have competitive choices are protected from cost-shifting, and to create a competitively neutral universal service fund to replace today's patchwork of subsidies.

Any rate rebalancing that this Commission may authorize should focus on the legitimate problem posed when and if a company demonstrates that some existing rates do not cover the costs of service to some existing customers. To the extent that those services and customers have been subsidized by revenues from services that have become competitive or are in the process of becoming competitive, this Commission needs to implement a competitively neutral universal service fund to provide a new subsidy source. The Universal Service docket will enable this Commission to make such a needed reform.

The action of the Commission today does not include any definitive imputation provision. Its absence normally would have required that I dissent from the whole document, because an imputation requirement is absolutely necessary for fair competition if access fees are not cost-based. I do not dissent today because it is my understanding from my conversations with my colleagues that the Commission again intends to use the Universal Service docket to identify the real cost of access and to set access rates accordingly. Consequently, cost-based access fees should be in place by the time intralata toll presubscription is implemented. If access fees are cost-based, an imputation requirement may not be necessary. I must say that, if this Commission fails to implement cost-based access fees, the imputation issue must be revisited or competition in the intralata toll market will be a farce.

Though implementation of presubscription should follow the completion of the Universal Service Investigation, I believe that beginning presubscription for the major telephone companies 18 months from now is to wait too long. A preferable implementation schedule would have been 12 months from now for the major companies and 24 months from today for companies serving 250,000 access lines or less. While this schedule would have been preferable from my perspective, I am not willing to dissent from the Chairman's Motion as a result of this point alone. Every member of this Commission has demonstrated flexibility on various points to enter promptly an Order approving presubscription.

Indeed, I want to thank the Chairman for his commitment to getting this proceeding completed by this Public Meeting. I also want to thank the staff of OSA, the Law Bureau, and ALJ who worked on this docket for a job well done.

When I moved on May 4, 1994 that this Commission begin this proceeding, I was hopeful that intralata toll presubscription could be implemented in a way that fostered full and fair competition and that would allow market forces to provide phone customers with lower intralata toll rates. I believe that today's approval of presubscription is an important step toward that goal. Much work, however, remains to be done over the next 18 months before the full promise of presubscription, competition, and customer choice is realized.

December 14, 1995

DATED


JOHN KASPER, COMMISSIONER